IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1146 OF 2005

Shri Vithal Namdeo Mahanwar ... Appellant

V/s

Shri Dadasaheb Tukaram Mahanwar & ors. ... Respondents

Mr. A.A. Kumbhakoni with Mr. A.P. Kulkarni for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 5TH OCT., 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the Addl. District Judge, Baramati dated 15.1.2005 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, J.D., Indapur decreeing the suit for partition and separate possession of the respective shares in the property.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit for partition and

separate possession alongwith the relief of permanent injunction in respect of the agricultural property, which was contested by the defendants with various submissions.

4. The Trial Court, on the basis of available evidence, came to the conclusion that the plaintiff had proved that he was legitimate son of deceased Tukaram and further that alienation in the name of defendant Nos. 3 to 7 was bogus and without consideration and, therefore, was not binding to the extent of his share. Defendants 3 to 7 were failed to prove that deceased Tukaram had no access with plaintiff when plaintiff could have been begotten and further they also proved that plaintiff and defendants 1 and 2 have relinquished their shares in the suit property in favour of defendant No.3 and, as such, the suit came to be decreed.

5. The appeal was carried to the District Court at Pune. The learned Addl. District Judge, after hearing both parties, concluded that the findings recorded by the learned Trial Court were legal and proper and, therefore, dismissed the appeal. Hence the present appeal.

6. At the outset, there is no substantial question of law involved in this appeal. The perusal of the judgments of both the Courts below definitely show that they have recorded concurrent findings after appreciating the entire evidence in proper perspective and in the result, I am of the view that there is no scope for interference and, as such, the appeal stands dismissed with no order as to costs.

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